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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,256	12/14/2004	Jean-Pierre Delhomme	21.1017US	8907

23718 7590 10/28/2005

SCHLUMBERGER OILFIELD SERVICES  
200 GILLINGHAM LANE  
MD 200-9  
SUGAR LAND, TX 77478

EXAMINER

LEDYNH, BOT L

ART UNIT PAPER NUMBER

2862

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/500,256

Applicant(s)

DELHOMME ET AL.

Examiner

Bot LeDinh

Art Unit

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
- 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



Bot LeDinh

Primary Examiner

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patey et al. (6158276) in further view of Thompson (2733201). Patey et al discloses substantially the same invention as claimed (see the International Preliminary Examination Report, Re Item V—submitted 6/25/04 by Applicant), except for the housing formed from an insulating material. Thompson (2733201) discloses that housings are made of insulating materials for the protection of the electrodes in salt solutions of sea water (col. 1 in lines 38-45). It would have been obvious to one of ordinary skill in the art to modify Patey et al by employing a housing made of an insulating material instead of stainless steel in order to protect the electrodes in salt solutions of sea water. As to claim 13, Although Patey et al. discloses four modules placed at a depth of 100 meters and five modules at 200 meters (col.7, lines 59-63, Patey et al does not disclose that the spacings of the electrodes are greater 1 meter. It is a matter of design choice to have the spacings of the electrodes which are greater than 1 meter depending upon the depth of the well and of the water. It would have been obvious to one of ordinary skill in the art to modify Patey et al by employing the

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electrode spacing of greater than 1 meter in order to effectively monitor the salinity of the water depending upon the depth of the well and of the water.

***Allowable Subject Matter***

Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Amendment***

Applicants' arguments filed September 06, 2005 have been fully considered but they are not persuasive. Applicants argue that (1) " '276 does not deal with the content of the modules," and "only mentioned that windows are provided in the wall of the module through which the water can reach the sensor," (2) " '276 is completely silent as to the arrangement of the electrode in the salinity module," (3) " '276 does not provide teaching as to the spacing of the electrodes in the salinity modules" and (4) '276 is "totally silent as to the technical problem solved by the present invention."

As to arguments (1) to (3), Patey et al in view of Thompson teach "the content of the modules" and "the arrangement of the electrodes" (i.e., spacings between consecutive electrodes ...beyond the casing") (see the above 103 rejection and see also Patey et al in col.1 lines 50-51, col.4 lines 35-37, col2 line 35-41, Fig.5, col.6 lines 28-31, col.7 lines 21-24, and col.8 lines 13-14). As to (4), "technical problem solved" is not claimed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Bot LeDinh whose telephone number is 5712722231. The examiner can normally be reached on Maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 5712722180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BL/ 2005



Bot LeDinh, J.D., Ph.D., D.A.  
Primary Examiner